

CTB
MIED (Rev. 03/11) Prisoner Civil Rights Complaint

Official Use Only

Case Number

Judge

Magistrate Judge

Case 2:13-cv-12798

Judge: Hood, Denise Page

MJ: Komives, Paul J.

Filed: 06-26-2013 At 12:54 PM

PRIS RANDOLPH TALLEY JR V CREDIT AC

CEPTANCE CORP, ET AL (LG)

PRISONER CIVIL RIGHTS COMPLAINT

This form is for use by state prisoners filing under 42 U.S.C. § 1983 and federal prisoners filing pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

Plaintiff's Information

Name

RANDOLPH TALLEY, JR.

Prisoner No.

134414

Place of Confinement

CENTRAL MICHIGAN CORRECTIONAL FAC.

Street

320 HUBBARD

City

ST. LOUIS

State

MI.

Zip Code

48880

Are there additional plaintiffs?

☐ Yes☒ No

If yes, any additional plaintiffs to this action should be listed on a separate 8½" x 11" sheet of paper and securely attached to the back of this complaint. You must provide names, prisoner numbers and addresses for all plaintiffs.

Defendant's Information

Name

CREDIT ACCEPTANCE CORPORATION
& MIDWEST TOWING, ET AL

Position

CHIEF EXECUTIVE
OFFICER & WORKERS

Street/P.O. Box

25505 W. 12 MILE RD
AND 14666 TELEGRAPH ROAD

City

SOUTHFIELD,
AND REDFORD

State

MI.

Zip Code

48034
& 48240

Are you suing this defendant in his/her:

☒ Personal Capacity☐ Official Capacity☐ Both Capacities

Are you suing more than one defendant?

☒ Yes☐ No

If yes, any additional defendants to this action should be listed on a separate 8½" x 11" sheet of paper and securely attached to the back of this complaint. You must provide their names, positions, current addresses and the capacity (personal, official or both) in which you are suing them.

I. PREVIOUS LAWSUITS

Have you filed any other lawsuits in state or federal court relating to your imprisonment?

☒ Yes ☐ No

If "Yes," complete the following section. If "No," proceed to Part II.

Please list all prior civil actions or appeals that you have filed in federal court while you have been incarcerated.

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition: DISMISSED

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition: DISMISSED

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition: DISMISSED

Any additional civil actions should be listed on a separate sheet of 8½" x11" paper and securely attached to the back of this complaint.

II. STATEMENT OF FACTS

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include the names of other people, dates and places involved in the incident. Do not give any legal arguments or cite any cases or statutes.

SEE ATTACHED
PAGES FOR
THIS INFO.

THANK YOU.
Talley.

III. STATEMENT OF CLAIMS

State what rights under the Constitution, laws, or treaties of the United States have been violated, and be specific. Set forth each claim in a separate paragraph. If you intend to allege several related claims, number and set forth each claim on a separate 8½" x 11" sheet of paper and securely attach the papers to the back of this complaint.

SEE ATTACHED
PAGES
FOR
THIS
INFO..

IV. RELIEF

State briefly and exactly what you want the Court to do for you.

SEE ATTACHED
PAGES FOR THIS INFO.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDOLPH TALLEY, JR.,
PLAINTIFF,

✓

CASE No.
Hon.

ALL CREDIT ACCEPTANCE
CORPORATION EMPLOYEES
(INVOLVED), et al (MINION)
EMPLOYEES INVOLVED, et al
(JOINTLY AND SEVERALLY), IN
THEIR INDIVIDUAL AND PERSONAL
CAPACITIES, AND, ALL MIDWEST
TOWING EMPLOYEES, et al
(MINION) EMPLOYEES, et al
INVOLVED AND RESPONSIBLE,
et al, (JOINTLY AND SEVERALLY)
IN THEIR INDIVIDUAL AND
PERSONAL CAPACITIES,
DEFENDANTS.

VERIFIED COMPLAINT
(FOR DAMAGES) WITH
JURY DEMAND

I (RANDOLPH TALLEY, JR.) PLAINTIFF
DECLARE (UNDER PENALTY OF PERJURY

AND MY OWN PERSONAL AND COMPETENT INFORMATION, KNOWLEDGE AND BELIEF) IT IS TRUE AND CORRECT THAT:

INTRODUCTION

THIS IS A CIVIL RIGHTS ACTION FILED BY RANDOLPH TALLEY, JR., A STATE PRISONER, FOR DAMAGES UNDER 42 U.S.C. § 1983; 18 U.S.C. § 242; 42 U.S.C. §§ 1981 AND 1982; THE CIVIL RIGHTS ACT OF 1964; M.C.L. 37.2101 (ELLIOT LARSEN CIVIL RIGHTS ACT); ALL (APPLICABLE) FEDERAL AND STATE ANTIDISCRIMINATION LAWS; ALLEGING PERSONAL INJURY, MALICIOUS INJURY, DIRECT INJURY, INJURY IN FACT, PECUNIARY INJURY, WILLFULL AND MALICIOUS INJURY, EXCESSIVE USE OF FORCE IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND IN VIOLATION OF PLAINTIFF'S FOURTEENTH AMENDMENT UNITED STATES CONSTITUTIONALLY PROTECTED RIGHT TO EQUAL PROTECTION UNDER/OF LAW (AS WELL AS THE MICHIGAN CONSTITUTION OF 1963.

JURISDICTION

- 1). THE COURT HAS JURISDICTION OVER THE PLAINTIFF'S CLAIMS OF VIOLATION OF FEDERAL CONSTITUTIONAL RIGHTS UNDER 42 U.S.C. §§ 1331 (1) AND 1343, et seq.
- 2). THE COURT HAS SUPPLEMENTAL JURISDICTION OVER THE PLAINTIFF'S STATE LAW TORT CLAIMS UNDER 28 U.S.C. § 1367. THIS ACTION SEEKS TO REDRESS THE DEPRIVATION OF RIGHTS SECURED BY ACTS OF CONGRESS PROVIDING FOR EQUAL RIGHTS OF PERSONS WITHIN THE JURISDICTION OF THE UNITED STATES.

PARTIES

- 3). THE PLAINTIFF, RANDOLPH TALLEY, JR., WAS LIVING ON SUSSEX STREET (IN DETROIT, MICHIGAN) DURING THE EVENTS DESCRIBED IN THIS COMPLAINT.
- 4). DEFENDANTS (KNOWN AND JOHN DOES PRESENTLY UNKNOWN TO PLAINTIFF) ARE DEFENDANTS ALL SUED IN THEIR INDIVIDUAL AND PERSONAL CAPACITIES (^{BOTH} FORT CREDIT ACCEPTANCE CORPORATION AND MID-WEST TOWING), ALL INVOLVED AND RESPONSIBLE. THE WORD "DEFENDANTS" COVERS EVERYONE(S).

FACTS

- 5). ON JUNE 24, 2010, THE PLAINTIFF WAS CALLED A "STUPID BLACK NIGGER BOY" AND PHYSICALLY BEATEN BY TWO VERY LARGE CAUCASIAN ("WHITE") MALES (IN THE DRIVEWAY OF HIS HOME AT 16185 SUSSEX STREET, DETROIT, MICHIGAN 48235) WITHOUT EXPLANATION. THEIR NAMES ARE UNKNOWN.
- 6). PLAINTIFF'S LIFE WAS THREATENED WHEN SAME TWO WHITE MALES STATED, QUOTE; "NIGGER WE WILL GET OUR SHOTGUNS OUT THE TOW TRUCK AND KILL YOUR BLACK ASS IF YOU DON'T BACK OFF OUT OUR WAY", END QUOTE (VERBATIM) FROM BOTH WHITE MALES (JUNE 24, 2010) IN PLAINTIFF'S DRIVEWAY (AT PLAINTIFF'S HOME).
- 7). PLAINTIFF ASKED BOTH **MALES** "WHO ARE YOU GUYS", AND WAS THEN HIT IN HIS HEAD WITH A METAL CLIP BOARD (REPEATEDLY) BY ONE OF THE MALES, AS THE OTHER MALE ■ STATED, QUOTE (FROM HIM VERBATIM); "WE ARE FROM MIDWEST TOWING NIGGER AND YOUR BLACK ASS IS GONNA GET A RODNEY KING COWBOY ASS KICKING SINCE YOU

WANT TO GET IN OUR WAY OF REPO—
 -SSESSING THIS TRUCK YOU
 PORCH-MONKEY COON NIGGER BASTARD
 ", END QUOTE (FROM HIM), WHILE
 THE OTHER MALE (WHITE GUY) WAS
 PUNCHING ME WITH (A CLOSED) FIST
 (AND HITTING ME WITH A METAL
 CLIPBOARD), IN MY DRIVEWAY
 (VERY HARD).

- 8). THESE TWO (2) "JOHN DOE" DE—
 FENDANTS (JOHN DOE) THEN TURNED
 (AFTER BEATING ME TO THE CEMENT
 DRIVEWAY OF MY HOME), GOT INTO
 THE TOW TRUCK (FLATBED), HOISTED
 MY TRUCK UP AND WERE PULLING
 OFF WHEN I GOT UP OFF THE
 DRIVEWAY GROUND AND STEPPED
 TO THE DRIVER'S SIDE OF THE
 TOW TRUCK AND STATED, QUOTE:
 "I WANT YOUR NAMES, WHO YOU
 WORK FOR, WHO SENT YOU, WHY AND
 TO HAVE YOU REMAIN HERE UNTIL
 THE POLICE GET HERE (AND DO
 NOT MOVE MY TRUCK— WITH
 MY PERSONAL BELONGINGS IN
 SAME TRUCK— UNTIL THEN",
 END QUOTE (FROM PLAINTIFF).
- 9). DEFENDANT JOHN DOE STOPPED
 AND STATED (WHILE THE OTHER

JOHN DOE DEFENDANT WAS HOLDING FLOYD IN THE TOW TRUCK WINDOW AND PUNCHING FLOYD), QUOTE; "MY NAME IS WHITE MASTER TO YOUR BLACK NIGGER, ~~B~~IGA BOO, MONKEY, JUNGLE-BUNNY ASS, BOY, I WORK FOR MIDWEST TOWING COMPANY, CREDIT ACCEPTANCE CORPORATION IS OUR BOSS AND WE ARE NOT WAITING ON THE COPS BECAUSE YOUR DUMB NIGGER BOY ASS WANTS US TO, WE'RE OUT OF HERE WIT ~~YOUR~~ TRUCK BOY", END QUOTE (FROM DEFENDANT).

- 10). DEFENDANT THEN GRABBED MY NECK (WITH HIS LEFT HAND) AND PULLED ME INTO THE TOW TRUCK'S WINDOW (WHICH WAS OPEN) WHILE PULLING OUT OF THE DRIVEWAY OF MY HOME AT A HIGH RATE OF SPEED (DRAGGING ME ON THE CEMENT — MY FEET, LEGS, HIP AND BACK BEING INJURED IN THE PROCESS —), AS I WAS DRAGGED ON THE STREET (ALSO), IN FRONT OF MY NEIGHBORS (UNTIL I FELL IN THE STREET, ON SUSSEX, IN DETROIT, MICHIGAN), ON JUNE 24, 2013 (INJURED AND BLEEDING).

- 20). ON INFORMATION AND BELIEF, DEFENDANT'S ACTS, ACTIONS AND DELIBERATE OMISSIONS HAVE (AND CONTINUE TO) CAUSED PLAINTIFF PERMANENT DISABILITY.
- 21). PLAINTIFF IS IN CONSTANT SEVERE PAIN CAUSED BY DEFENDANTS (ALL OF THEM), et al.
- 22). ALL SUPRA (ABOVE) NAMED DEFENDANT'S ACTS, ACTIONS AND OMISSIONS (NAMED SUPRA HEREIN) RESULTED IN SERIOUS PHYSICAL AND EMOTIONAL INJURY, PAIN AND DAMAGES OUTLINED (HEREIN) SUPRA.
- 23). THE PLAINTIFF EXHAUSTED ALL ADMIN. REMEDIES.
CLAIMS FOR RELIEF
- 24). THE ACTIONS OF DEFENDANTS IN USING PHYSICAL FORCE AGAINST PLAINTIFF WITHOUT NEED OR PROVOCATION, OR IN FAILING TO INTERVENE TO PREVENT THE MISUSE OF FORCE, WERE DONE MALICIOUSLY AND SADISTICALLY AND CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION.
- 25). THE ACTIONS OF DEFENDANTS JOHN DOE, et al. IN USING PHYSICAL

FORCE AGAINST PLAINTIFF WITHOUT NEED OR PROVOCATION CONSTITUTED THE TORT OF ASSAULT AND BATTERY UNDER THE LAW OF MICHIGAN.

26). THE FAILURE OF SUPERVISORY AND CHIEF EXECUTIVE OFFICERS (C.E.O.)

DEFENDANTS OF CREDIT ACCEPTANCE CORPORAT-
-ION AND MIDWEST TOWING TO
 TAKE DISCIPLINARY OR OTHER ACTION TO CURB THE KNOWN PATTERN OF PHYSICAL ABUSE DURING REPOSSESSIONS OF VEHICLES CONSTITUTES DELIBERATE INDIFFERENCE TO PLAINTIFF'S AND OTHER'S SAFETY, AND CONTRIB-
 -UTED TO AND PROXIMATELY CAUSED THE ABOVE DESCRIBED VIOLATION OF EIGHTH AMENDMENT RIGHTS AND ASSAULT AND BATTERY.

RELIEF REQUESTED

WHEREFORE, PLAINTIFF REQUESTS THAT THE COURT GRANT THE FOLLOWING RELIEF:

A). ISSUE A DECLARATORY JUDGMENT STATING THAT:

1). THE PHYSICAL ABUSE OF THE PLAINTIFF BY DEFENDANTS AND DEFENDANT DOE (TOWTRUCK DRIVER)

VIOLATED THE PLAINTIFF'S RIGHTS UNDER THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CONSTITUTED AN ASSAULT AND BATTERY UNDER STATE LAW.

2). DEFENDANTS CREDIT ACCEPTANCE CORPORATION AND MIDWEST TOWING, ~~et al~~ (INVOLVED AND RESPONSIBLE), JOINTLY AND SEVERALLY, FAILURE TO TAKE ACTION TO CURB THE PHYSICAL ABUSE OF PLAINTIFFS VIOLATED THE PLAINTIFF'S RIGHTS UNDER THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CONSTITUTED AN ASSAULT AND BATTERY UNDER STATE LAW.

B). AWARD COMPENSATORY DAMAGES IN THE FOLLOWING AMOUNTS:

1). \$5,000,000.⁰⁰ (FIVE MILLION DOLLARS) JOINTLY AND SEVERALLY AGAINST DEFENDANTS CREDIT ACCEPTANCE CORPORATION, MIDWEST TOWING AND DEFENDANT DOE, et al, FOR THE PHYSICAL AND EMOTIONAL INJURIES SUSTAINED AS A RESULT OF PLAINTIFF'S BEATING (AND DRAGGING).

FII-

C). AWARD PUNITIVE DAMAGES IN THE FOLLOWING AMOUNTS:

1). \$5,000,000.00 (FIVE MILLION DOLLARS) AGAINST DEFENDANT CREDIT ACCEPTANCE CORPORATION;

2). \$5,000,000.00 (FIVE MILLION DOLLARS) AGAINST DEFENDANT MIDWEST TOWING;

3). \$5,000,000.00 (FIVE MILLION DOLLARS) AGAINST DEFENDANT JOHN DOE (TOW TRUCK DRIVER),

& D). GRANT SUCH OTHER RELIEF AS IT MAY APPEAR THAT PLAINTIFF IS ENTITLED.

DATE: JUNE 19, 2013.

RESPECTFULLY SUBMITTED:

Randolph Talley, Jr.
RANDOLPH TALLEY, JR.
320 NORTH HUBBARD ST.
ST. LOUIS, MICH. 48880.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDOLPH TALLEY, JR. (134414)
PLAINTIFF,

V.

CASE NO.
HON.

ALL CREDIT ACCEPTANCE
CORPORATION EMPLOYEES,
et al, AND, ALL MID-
-WEST TOWING EMPLOYEES,
et al, INVOLVED, AND
RESPONSIBLE,

DEFENDANTS.

PLAINTIFF: RANDOLPH TALLEY, JR.
PRO SE (*134414)
320 N. HUBBARD ST.
ST. LOUIS, MICHIGAN
48880

DEFENDANT'S ADDRESS

1) CREDIT ACCEPTANCE CORPORAT
-ION
25505 W. 12 MILE RD.
SOUTHFIELD, MI. 48034
PHONE: (248) 353-2700

2) MIDWEST TOWING
14666 TELEGRAPH RD.
REFORD, MICH.
48240
PHONE: (313) 538-2100

DATE: JUNE 19, 2013

SEE PRECEEDING
PAGES

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed (signed) on JUNE 19, 2013 (date).

Randolph Talley, Jr.
Signature of Plaintiff

CIVIL COVER SHEET FOR PRISONER CASES

Case No. 13-12798 **Judge:** Denise Page Hood **Magistrate Judge:** Paul J. Komives

Name of 1st Listed Plaintiff/Petitioner:

RANDOLPH TALLEY JR

Name of 1st Listed Defendant/Respondent:

CREDIT ACCEPTANCE CORPORATION, ET AL

Inmate Number: 134414**Additional Information:****Plaintiff/Petitioner's Attorney and Address Information:****Correctional Facility:**

Central Michigan Correctional Facility

32C N. Hubbard

St. Louis, MI 48880

GRATIOT COUNTY

BASIS OF JURISDICTION☐ 2 U.S. Government Defendant☒ 3 Federal Question**ORIGIN**☒ 1 Original Proceeding☐ 5 Transferred from Another District Court☐ Other:**NATURE OF SUIT**☐ 530 Habeas Corpus☐ 540 Mandamus☒ 550 Civil Rights☐ 555 Prison Conditions**FEE STATUS**☒ IFP *In Forma Pauperis*☐ PD Paid**PURSUANT TO LOCAL RULE 83.11****1. Is this a case that has been previously dismissed?**☐ Yes☒ No**> If yes, give the following information:****Court:** _____**Case No:** _____**Judge:** _____**2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)**☐ Yes☒ No**> If yes, give the following information:****Court:** _____**Case No:** _____**Judge:** _____